



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 03129-99

5 August 1999

SSGT [REDACTED] USMC

Dear Staff Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 August 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 7 May 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board noted that Marine Corps Order P1610.7D, Change 4 required fitness report comment on body fat percentage for Marines over the weight standard. Therefore, they found it of no consequence that the comment in the contested fitness report on your body fat percentage was inserted by a person other than your reporting senior. They observed the reporting senior's statement of 9 September 1998 verifies the report at issue accurately records the measurement of your body fat percentage taken by your company training personnel. The reporting senior's statement and your unsupported assertion that the Hansen Fitness Center measured you at 17 percent body fat on 5 January 1998 did not persuade them that the company's measurement of 21 percent was inaccurate. In this regard, they noted that while your fitness report for 1 January to 21 June 1998, cited by your reporting senior, shows your body fat was 18 percent, it also shows your weight was down to 222 pounds; and they further noted you provided no information about the qualifications of the Hansen Center.

In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



3129-99

DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:
1610
MMER/PERB
MAY 7 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF STAFF
SERGEANT [REDACTED] USMC

Ref: (a) SSgt [REDACTED] DD Form 149 of 9 Nov 98
(b) MCO P1610.70 w/Ch 1-4
DL

Encl: (1) Completed Fitness Report 970701 to 971231 (AN)

1. Per MCO 1610.11B, the Performance Evaluation Review Board, with three members present, met on 3 February 1999 to consider Staff Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 970701 to 971231 (AN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner contends that subsequent to signing Item 22 of the fitness report, incorrect information was added relative to his body fat percentage. To support his appeal, the petitioner furnishes his own statement and provides a letter from the Reporting Senior of record.

3. In its proceedings, the PERB concluded that:

a. Notwithstanding the petitioner's statement and the letter from the Reporting Senior, the Board is not convinced that the petitioner's body fat of 21% was not correct at the time the report was authored. In fact, its correctness is definitely alluded to by the Reporting Senior.

b. A body fat of 21% exceeds the standard for male Marines; hence, the report is adverse and should have been acknowledged as such by the petitioner. The Board concluded that referral at this time would be appropriate and effected such action. The petitioner, however, failed to respond to official correspondence from this Headquarters which requested his acknowledgment of the report and a rebuttal statement, if he so desired. This action is documented by the Memorandum for the Record appended to the report.

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4. The Board's opinion, based on deliberation and secret ballot vote is that the fitness report reflected in the enclosure should remain a part of Staff Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps